

### **REMARKS/ARGUMENTS**

This Amendment is in response to the Final Office Action mailed March 20, 2009. This Amendment amends claims 1-5, 7, 9-11, 13-15, and 17-20. Applicants submit that no new matter has been introduced by virtue of these amendments. Reconsideration of the rejected claims is respectfully requested.

#### **I. AMENDMENTS TO THE DRAWINGS**

Submitted herewith are replacement sheets for Figs. 1-9. New Figs. 1-9 are substantially identical to the original Figs. 1-9, and merely replace hand-drawn components and otherwise increase clarity. Consequently, the new drawings are supported by the specification as filed and do not introduce new matter.

#### **II. CLAIM REJECTIONS UNDER 35 U.S.C. § 103**

Claims 1-8, 11, 12, 14-15, and 17-20 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over “Enterprise Information Portals – Move Over Yahoo!; the Enterprise Information Portal is on its Way” (hereinafter “Merrill”) in view of U.S. Pat. No. 6,725,183 to Cawse (hereinafter “Cawse”). Claims 9, 10, and 13 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Merrill in view of Cawse and further in view of U.S. Pat. No. 6,853,920 to Hsiung (hereinafter “Hsiung”). Applicants respectfully traverse these rejections.

##### **A. Independent Claim 1**

Claim 1 recites:

A method of presenting an analysis of enterprise wide business data, the enterprise wide business data collectively stored in a plurality of data repositories, comprising the steps of:

collecting transactional data from the plurality of data repositories into warehouse data stored in a uniform format in a data warehouse;

in response to a first user request to a web site operable to access said warehouse data and to provide statistical analysis, including six sigma analysis of said enterprise wide business data, transferring an electronic document to said user, wherein said electronic document allows said user to select parameters for a data set in said enterprise wide business data and a performance measure to be analyzed for the data set defined by the parameters;

in response to a second request from said user to said website, performing statistical analysis including six sigma statistical analysis of said performance measure for said data set according to said parameters; and  
transferring results of said statistical analysis to said user.

Applicants respectfully submit that Merrill and Cawse do not render claim 1 obvious.

As noted above, claim 1 recites “transferring an electronic document to said user, wherein said electronic document allows said user to select parameters for a data set in said enterprise wide business data and a performance measure to be analyzed for the data set defined by the parameters.” The Office Action at page 8 asserts that “transferring an electronic application to said user, wherein said electronic application allows said user to select a performance measure to be analyzed for a data set in said enterprise wide business data” is taught by Merrill at page 10, paragraph 5. As explained on page 3 of the Office Action, this paragraph “discusses users using intranets and extranets to interact with data analysis capabilities provided by enterprise information portals.” Further, in response to previously presented arguments for patentability, the Office Action in the “Response to Arguments” section makes a general assertion that it is proper to cite to Merrill for the teachings for which it is cited (which presumably include the suggestions of page 10, paragraph 5) because Merrill “makes it clear that enterprise information portal is a technology that has emerged.” The Office Action on page 4 makes several citations to portions of Merrill that show that enterprise information portals have already emerged. Applicants respectfully disagree.

First, page 10, paragraph 5 of Merrill describes several operations with data including drilling down into data (from year to quarter to month), drilling across (from one report to another, separate report), rolling up (day to month to quarter), linking to external Web sites,

downloading information sources, and sharing information with other users. These operations are not described in any detail, but the beginning of page 10, paragraph 5 describes translating to EIP Applications user experience in the form of “clicking through Web links, participating in discussion groups and posting questions and comments to electronic bulletin boards.” Thus, the operations described in page 10, paragraph 5 do not concern selecting performance measures to be analyzed, but making EIP Application experience more like web surfing. Nowhere in the paragraph is selecting performance measures discussed.

Second, page 10, paragraph 5 of Merrill is part of a section of the reference directed to “Growth Areas.” Page 10, paragraph 5 of Merrill describes that “EIP Applications will have to allow users to ‘question’ and share information on their desktops” (emphasis added). Thus, according to Merrill, the subject matter of the paragraph was not part of the state of the art at the time of Merrill’s publication, but something that the authors believed should be developed in the future. Moreover, as acknowledged in the Office Action at page 5, Merrill was prepared by “those not involved in the actual software development,” but by those having less than ordinary skill in the art.

In other words, page 10, paragraph 5 of Merrill describes a suggestion of future development made by those with less than ordinary skill in the art. Applicants respectfully submit that a suggestion of future features made by those having less than ordinary skill in the art does not qualify as a teaching of those features. Indeed, if the knowledge of those of ordinary skill in the art is much higher than what is discussed in Merrill, as acknowledged in the Office Action at page 5, then it follows that such a prediction of features that may exist in the future would be entirely unreliable and especially does not indicate any capabilities of those with ordinary skill in the art.

Further, the aforementioned response in the “Response to Arguments” section of the Office Action is not on point. Applicants do not dispute that Merrill evidences enterprise information portals that, at the time of the reference’s publication, had at least some limited set of capabilities. However, Applicants submit that, when Merrill makes predictions or suggestions about future capabilities that enterprise information portals may or should have, such as noted in

the previous paragraphs, the predictions or suggestions cannot be relied upon as teaching those features. This is especially true when, as acknowledged in the Office Action, the authors making the prediction had less than ordinary skill in the art at the time of the invention.

Thus, for these reasons, Applicants submit that Merrill does not teach “transferring an electronic document to said user [that] allows said user to select parameters for a data set in said enterprise wide business data and a performance measure to be analyzed for the data set defined by the parameters,” as recited in claim 1. Cawse and Hsiung do not make up for this deficiency of Merrill because the references are directed to completely different subject matter. For example, as discussed in more detail below Cawse is directed to experimental chemistry. Likewise, Hsiung is directed to “a system for monitoring an industrial process and taking based on the results of process monitoring.” Thus, this element is not taught by Merrill, Cawse, or Hsiung, either individually or in combination.

### **1. Official Notice**

As noted above, claim 1 recites “transferring an electronic document to [a] user” where “said electronic document allows said user to select a performance measure to be analyzed for a data set in said warehouse data.” The Office Action at page 9 acknowledges that Merrill does not teach this element, but takes Official notice “that using a website that utilizes electronic documents to provide client/server/browser applications such as taught by Merrill is old and well known in the art.” Applicants respectfully submit that Official Notice is not appropriate in the instant case.

“Official notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances.” M.P.E.P. § 2144.03(A). While “official notice” may be relied on, these circumstances should be rare when an application is under final rejection. *Id.* “Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known” such as facts that are “capable of such instant and unquestionable demonstration as to defy dispute.” *Id.* Accordingly, “it would not be appropriate for the examiner to take official notice of facts without

citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” *Id.* (emphasis in original).

Applicant respectfully submits that “transferring an electronic document to [a] user” where “said electronic document allows said user to select a performance measure to be analyzed for a data set in said warehouse data” is not capable of instant and unquestionable demonstration as to defy dispute. For example, claim 1 recites more than merely “utilize[ing] electronic documents to provide client/server/browser applications,” as the Office Action on page 9 asserts is old and well-known in the art, but a specific use of an electronic document, as discussed above, which Applicants submit is not old and well-known. There is no indication in the references that such use of an electronic document would have been within the skill of one with ordinary skill in the art at the time of the invention. Consequently, if the Examiner feels that these features would have been obvious, the Examiner is respectfully requested to provide references that teach these features.

## **2. The Cawse Reference**

As amended, claim 1 recites, “performing statistical analysis including six sigma statistical analysis of said performance measure for said data set according to said parameters.” For context regarding this element, claim 1 recites that the data set is in warehouse data that includes transactional data collected from “from the plurality of data repositories.” The Office Action at page 10 acknowledges that “Merrill does not teach where the analysis is statistical in nature, including a six sigma analysis” but asserts that Cawse remedies this deficiency of Merrill. Applicants respectfully disagree at least because Cawse is not analogous art and, therefore, cannot be relied upon in a rejection under 35 U.S.C. § 103.

A reference is analogous “if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor’s attention in considering his or her invention as a whole.” M.P.E.P. § 2141.01(I). Applicants respectfully submit that Cawse would not have logically commended itself to an inventor’s attention in considering his or her invention as a whole.

As noted in Applicants response dated 29 December 2008 and as described on page 3 of the specification, the present invention is directed to resolving issues involving analysis (such as six sigma analysis) of data distributed over a whole organization which may be stored in different databases and in different formats. Cawse, on the other hand, is not directed to issues associated with the analysis of data distributed over a whole organization, but to identifying chemicals that are suitable candidates for further research. (Cawse, column 2, line 60 through column 3, line 10). To Applicants' knowledge, the issues in Cawse are not related to the location of data sources, but to the labor-intensive process involved in identifying suitable chemicals. (Cawse, column 3, lines 2-5). More specifically, Cawse is directed to making a combinatorial system of lab experiments more efficient by reducing the variability in the leads it produces. (Cawse, column 3, lines 34-40). Therefore, an inventor with ordinary skill in the art of the present invention would not logically turn to Cawse to solve the problems involved in applying statistical analysis to enterprise wide business data.

The Office Action on page 6 asserts that Cawse is analogous art because Cawse makes a brief note that six sigma techniques are applicable to business processes as well as those more technical in nature and, therefore, suggests the desirability of combining Cawse and Merrill. Applicants respectfully disagree. Even assuming *arguendo* that Cawse suggests the desirability of applying six sigma techniques to business processes, Cawse, however, does not teach six sigma techniques applied to business processes and especially does not teach applying six sigma techniques to data sets selected from enterprise-wide business data or transactional data, as recited in claim 1. Because Cawse is entirely concerned with application of six sigma techniques to data sets identical or similar to those defined in claim 1, one with ordinary skill in the art would not have considered the reference for its teachings.

Further, the Office Action on page 6 asserts that, even assuming that Cawse did not suggest the desirability of combining Cawse and Merrill, it is nevertheless proper to cite to Cawse because "combining the two references provides a predictable result in apply[ing] known statistical techniques to business data." Applicants respectfully disagree. As noted above, Cawse teaches six sigma analysis of chemical experimental data which is substantially dissimilar

from transactional data which, for example, includes orders, shipping dates, revenue, inventory, etc. Specification, page 12, lines 6-8. As noted above, Cawse does not teach how any of its techniques could be used on transactional data nor is there any indication that one with ordinary skill in the art of Applicants' invention, as defined in the claims, would be able to convert the teachings of Cawse regarding statistical analysis of chemical experimental data to enterprise-wide transactional data, as recited in claim 1. Therefore, for at least these additional reasons, it is respectfully submitted that the Office Action's reliance on Cawse is improper and, therefore, that claim 1 is allowable under 35 U.S.C. § 103.

**B. Dependent Claims 2-10**

Dependent claims 2-10 depend from claim 1, discussed above. Therefore, it is respectfully submitted that claims 2-10 are allowable at least for depending upon an allowable claim. Further, it is respectfully submitted that at least some of claims 2-10 further recite patentable subject matter.

For example, claim 4, as amended, recites "highlighting the area of said histogram outside of said target limit in a manner differentiating the area of said histogram outside of said target limit from the area of said histogram inside of said target limit." The Office Action at page 11 acknowledges that "highlighting the area of said histogram outside of said user specified target limit" is not taught by Merrill, but at page 13, asserts that this is taught by Cawse in Figure 14, which shows a bar of a histogram left of a line marked LSL that is, in the opinion of the Examiner, highlighted. It appears that the Office Action considers this bar to be highlighted because it is shaded. Applicants respectfully disagree. For instance, every other bar in the histogram of Figure 14 of Cawse is shaded in the exact same manner as the bar to the left of the LSL line. Nevertheless, while Applicants do not believe it is necessary, in order to expedite prosecution, Applicants have amended claim 4 to specify that the highlighting is done "in a manner differentiating the area of said histogram outside of said target limit from the area of said histogram inside of said target limit." Because Cawse has all bars of the histogram of Figure 14 shaded in the same manner, Cawse does not teach this feature. Therefore, it is respectfully

submitted that Cawse and Merrill do not, individually or in combination, teach all elements of claim 4 and, therefore, that claim 4 is allowable under 35 U.S.C. § 103.

**C. Claims 11-14**

Applicants respectfully submit that independent claims 11-14 are allowable at least for reasons similar to those discussed above in connection with claim 1. For example, claim 11, as amended, recites an Internet-based system comprising a computer system operable to “to perform a statistical analysis, including six sigma analysis, of said warehouse data” that includes business transactional data. Further, amended claim 11 recites that the computer system is operable “to deliver a Hyper-Text Markup Language document via the Internet to an Internet node in response to said user-generated analysis requests” where the “document directs a browser to provide a graphical display of said statistical analysis.” For reasons similar to those discussed above, Cawse and Merrill do not, in combination or individually teach these elements and, therefore, Claim 11 is allowable under 35 U.S.C. § 103. Claims 12-14 depend from claim 11 and, therefore are allowable at least for allowing upon an allowable claim. Applicants further submit that claims 12-14 further define patentable subject matter.

**D. Claims 15-20**

Applicants respectfully submit that independent claims 15-20 are allowable at least for reasons similar to those discussed above in connection with claim 1. For example, independent claim 15, as amended, recites “transferring...an electronic document [that] has selectable fields for a plurality of dimensions to select a data set accessible by said host computer system” and “in response to a user-generated request received from said peripheral computer for a statistical analysis, including six sigma analysis, of a user-selected performance measure for said data set, performing said statistical analysis.” Claim 15 also specifies that “said data set [is] from a plurality of data repositories having transactional data stored therein.” For reasons similar to those discussed above in connection with claim 1, these elements are not obvious under 35 U.S.C. § 103 over Merrill in view of Cawse.

Claims 16-20 depend from claim 15 and, therefore, are allowable at least for depending upon an allowable claim. Applicants further submit that at least some of claims 16-20



further define patentable subject matter. For example, claim 19, as amended, recites “highlighting data points which are outside of a target range in a manner differentiating said data points outside of the target range from data points within the target range.” For reasons similar to those discussed above in connection with claim 4, this element is not obvious under 35 U.S.C. § 103 over Merrill in view of Cawse. Therefore, for at least these reasons, Applicants respectfully submit that claims 15-20 are allowable.

### **III. AMENDMENTS TO THE CLAIMS**

Unless otherwise specified, amendments to the claims are made for purposes of clarity, and are not intended to alter the scope of the claims or limit any equivalents thereof. The amendments are supported by the Specification as filed and do not add new matter.

### **CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 206-467-9600.

Respectfully submitted,

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